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FISCAL IMPACT STATEMENT

LS 6621

BILL NUMBER: SB 293

NOTE PREPARED: Dec 20, 2007

BILL AMENDED:

SUBJECT: Expungement of Arrest Records.

FIRST AUTHOR: Sen. Rogers

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides for the expungement under certain circumstances of the arrest records of a person whose conviction has been vacated if the state may not or will not refile charges against the person. It establishes a procedure to restrict access to limited criminal history information concerning state convictions if the person has not been convicted in the previous five years, and prohibits an employer from asking about certain older arrests and convictions.

Effective Date: July 1, 2008.

Explanation of State Expenditures: Summary- The bill will have minimal fiscal impact on state and local government. If offenders file petitions for expungement, revenues to the state General Fund could increase. Costs may minimally increase for the Indiana State Police to maintain data and for trial courts.

Indiana State Police: The limited criminal history for an offender could be restricted for crimes committed 5 years prior (changed from 15 years under current statute) and then would not be restricted if the person commits another crime other than a traffic violation. The Indiana State Police would incur costs for administering this section, but the costs are expected to be very minimal.

Background- Under current law, if an individual's conviction has been vacated and the state is neither permitted nor intends to refile charges against an individual, the individual has no legal foundation to petition the court to expunge the records related to the initial arrest. This bill would permit an individual in this situation to petition the court to expunge the arrest records if certain conditions are met. The expungement is done in the same manner as if the person was arrested but no criminal charges were filed, if all criminal

charges were dropped, if the individual had been mistaken for another person, if no offense had been committed, or if there was an absence of probable cause. The individual would file this petition in civil court, and the court could either grant the petition for expungement, schedule a hearing, or deny the petition.

Explanation of State Revenues: *Court Fee Revenue:* If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record. In addition, some or all of the judicial salaries fee (\$17), the public defense administration fee (\$3), the court administration fee (\$3), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Trial Courts:* This bill would likely have a minimum impact on trial courts. Any added costs to the state court system will depend on the frequency by which convictions have been vacated and the individual has no other criminal charges pending. A local law enforcement agency may oppose the expungement and has 30 days to file a notice with the court opposing the expungement.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: Indiana State Police.

Local Agencies Affected: Trial courts with criminal jurisdiction; local law enforcement agencies.

Information Sources: Indiana State Police.

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